

Honorable David G. Estudillo

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

NATHEN BARTON,

Plaintiff
v.

JOE DELFGAUW, XANADU
MARKETING INC., STARTER HOME
INVESTING INC, &
JOHN DOE 1-10

Defendant(s).

Case No.: **3:21-cv-05610-DGE**

DECLARATION OF
NATHEN BARTON IN SUPPORT
OF MOTION TO RECONSIDER

My name is Nathen Barton and I live at 4618 NW 11th Cir, Camas WA 98607. I am over the age of eighteen, and otherwise competent to be a witness in this matter. Except as expressly set forth herein, I make this declaration in my personal capacity and based on my personal knowledge.

1. Exhibit A is a true and accurate copy of an email I received from Edward Winkler on September 15, 2021.
2. He also went by or other people involved in the litigation referred to him as Ed Winkler and Edd Winkler.

3. People had called the 1019 phone asking for a “Jamaal Mason” prior to September 15, 2021, but I do not know Jamaal Mason, I am not Jamaal Mason, and I’ve never gone to any website and used the name Jamaal Mason to consent for calls.
4. Exhibit B is a true and accurate copy of a transcript of the 5/22/2022 court hearing in this case. I ordered the CD of the audio of the proceedings and I hired Susan E. Anderson to transcribe about five minutes of the audio.
5. My wife and I do not want unsolicited sales calls to us or any member of our house.
6. We do not want robocalls to any member of our house without written consent or things for the public good.
7. Despite our wishes we often receive unwanted telephone calls, and we find the calls to be obnoxious because we want to leave our ringers on for the calls we want, but unwanted ringing phones are disruptive and obnoxious.
8. Our children are supposed to have their ringers on when not in school so that my wife and I can call them and get ahold of them when we want to, but when they receive frequent unwanted calls they turn their ringers off.
9. Members of the house are sensitive to ringing phones, they are more distracted and take longer to get back on task.
10. I have years of experience investigating the identity of people and entities initiating unwanted phone calls to our house, or on whose behalf they were calling.
11. I am sure there are people far better than I, but I am probably better than many.
12. When I refer to “Callers” in the following paragraphs, I am referring to the people and entities initiating unwanted phone calls I answer, or the people or entities on whose behalf they are initiating the calls for.

1 13. There is no one method that identifies all Callers, and I have never identified most of the
2 people and entities who have called me without consent.

3 14. But the most productive method to identify Callers is to keep them on the phone, keep them
4 talking, wait for opportunities to ask them for who they are calling for, for their website, for
5 their physical address, for them to send me an email, for them to mail me something or any
6 other information that will at least allow me to firmly connect this call to others.

7 15. Getting most telemarketers who call our house to admit who they are or who they are
8 calling for is an art, not a science, because there is no set formula for getting information
9 out of them, there are just experiences that help me keep this specific telemarketer talking
10 and giving up information. That said, most calls don't result in identifying the telemarketer.

11 16. In my experience, while Callers want to telephone solicit as that term is defined in 47 CFR
12 § 64.1200(f)(15), they are very wary of revealing their identities until they are confident
13 they have found a buyer for their services and they usually wait as long as possible to reveal
14 their true identity.

15 17. A few Callers are legitimate businesses like Walmart who call without consent because
16 they are too lazy to check if a telephone number has changed hands or to remove a number
17 from their database in response to a STOP, and these legitimate businesses will openly
18 identify themselves, but these sorts of unwanted telephone calls are the uncommon
19 exception.

20 18. By far, the most common unwanted telephone solicitations are initiated by Callers who use
21 fake business names, unregistered business names, no business name, d/b/a names from a
22 far-off state that are very difficult to find, websites with no true identifying information, and
23 spoofed (fake) calling numbers.

1 19. Voice callers nearly always use layers of call center phone agents who ask questions
2 designed to sort out the people who are potential customers for the goods or services from
3 those they sense are just on the line to ascertain their identity.

4 20. They often start a call asking to speak with a specific person, or asking the person who
5 answers for their name.

6 21. Callers have called the 1019 number asking for Ivette Jimenez, James Martinez, Jamaal
7 Mason, Patrick Nunez, Raymond Poor, and other people who I don't remember their
8 names.

9 22. The Callers often will hang up immediately up if you don't confirm the name they are
10 looking for, so not confirming the name they are looking for gives a substantial risk the
11 investigation into who is calling will end before it begins.

12 23. The Callers will usually screen with questions and often you can tell if you gave a wrong
13 answer by what they say next or their tone of voice, and that almost always results in a hang
14 up or the flow of information shutting down, and no more evidence gathering.

15 24. These screeners typically hang up the call very quickly if they sense something is off about
16 the call or they suspect the callee has an unnatural interest in their identity.

17 25. In my experience, over 95% of voice callers hang up on me before I ascertain their true
18 identity despite my telling them what I believe they are looking for from a callee.

19 26. For this declaration I will speak of the recordings as if it is my voice on them and the calls
20 are not edited, but in this declaration I can't testify that the calls are not edited because I no
21 longer remember actually having any of those conversations out of the thousands of
22 conversations with telemarketers I've had over the years.

23 27. In listening to the recordings, I can see the different investigative techniques at work.

24 28. For example, in the 11/17/2021 dated call, I answer "hello" but don't give my name.

1 29. I would be listening for what name they address me by, if any, or ask for if any, and what
2 name they use to introduce themselves, and what entity name they use, if any, and what
3 script they use to warm me up for a sales pitch, all to try and mentally connect that call with
4 my experience with similar past callers.

5 30. The 11/17/2021 call is where the agent says: “looks like you just responded from a text
6 message we sent out to you” and then goes on to ask more questions. It is not unusual for
7 telemarketers to start the call out pretending they are calling in response to something
8 we’ve done online.

9 31. I would have answered the questions with what my experience at the time told me he
10 wanted to hear, and my memories of what I had told past callers that worked to keep them
11 on the line, or didn’t work and resulted in a hang up or no information, to keep him on the
12 line and get him willing to disclose useful information.

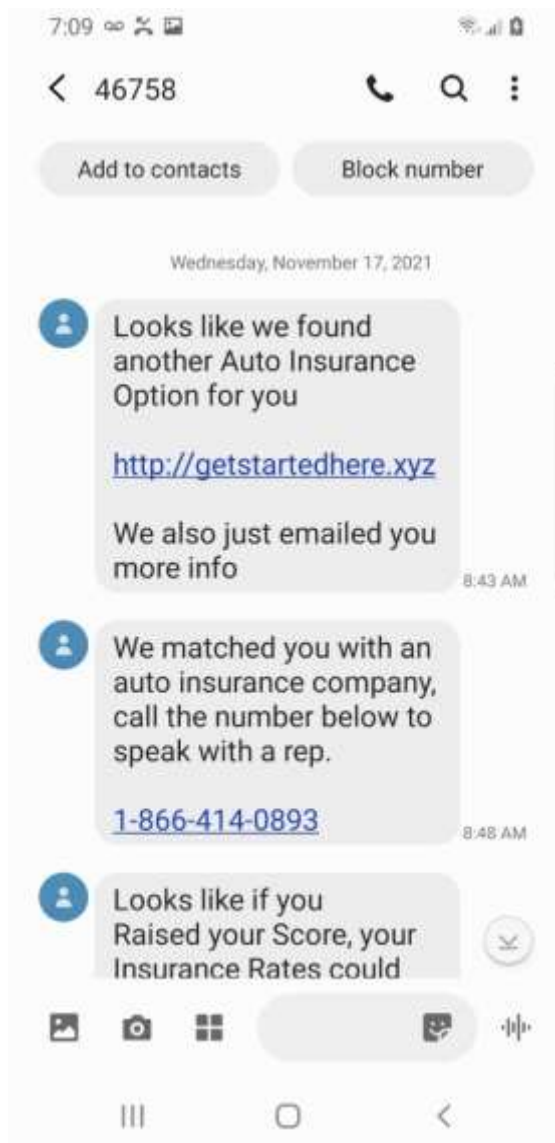
13 32. In many voice calls if you can stay on the call long enough there are opportunities to ask
14 questions that might result in useful information tracing the call to the entities responsible
15 and in this 11/17/2021 call I can tell that after answering a few of his questions, it felt safe
16 to ask him some questions that might lead to the entities he was calling from or soliciting
17 for, and eventually he says he is from what sounds like “Trust [something] Auto
18 Insurance”.

19 33. In this 11/17/2021 call he said: “looks like you just responded from a text message we sent
20 out to you” and I sound genuinely puzzled when I asked him “you said responded to a text
21 message?”. He responds “Yes”, and I sound genuinely puzzled when I ask: “What text
22 message?” and then he responds: “To help you save money on your auto insurance sir”.
23
24

34. At the time I didn't connect the call with receiving a text message from the defendants because as the Court can see, Table 1 (Dkt 423 page 2) does not list a voice call on 11/17/2021.

35. It wasn't until after the defendants disclosed the recording that I connected the dots on this call to a specific text message sent shortly before the call.

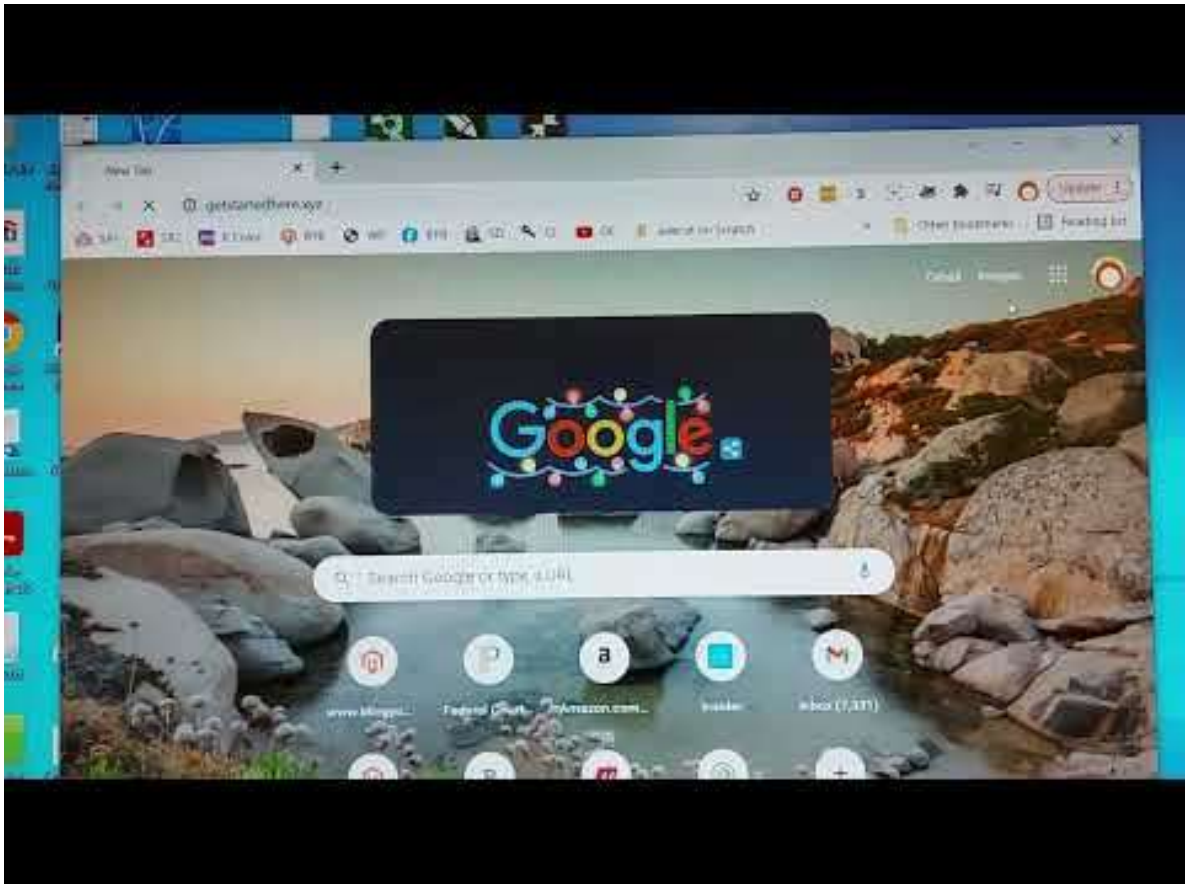
36. The next image is a true and accurate copy of text message the 1019 phone received on 11/17/2021 at 8:43am with a link to <http://getstartedhere.xyz>, about 50 minutes prior to the voice call.



37.

38. Typing this URL <http://getstartedhere.xyz> into a web browser opened webpage
TrustBuiltInsurance.com,

39. I took the following video of this happening on or about November 28, 2021. This video is
a true and accurate copy of the original video.



40. This video is available at <https://www.youtube.com/watch?v=8lT-R6S8kNA>.

41. My research indicates this link to <http://getstartedhere.xyz> in the text message was just as it
appears, a simple link to "<http://getstartedhere.xyz>".

42. Text messages don't have complex links like [this](#) that don't display the true destination,
which in this case is <https://simpletexting.com/blog/how-to-add-a-link-to-a-text-message/>.

1 44. This means that the link <http://getstartedhere.xyz> was just the link

2 “<http://getstartedhere.xyz>”, it didn’t have a hidden tracking code, so even if I clicked on

3 <http://getstartedhere.xyz> from the text message, the message’s sender would not know.

4 45. I did not make the connection between this text message and the 11/17/2021 call at the time
5 of the call.

6 46. It is very unlikely I knew about the text message after it was sent but before he called.

7 47. Even if I did hear the phone chirp I didn’t look at the unwanted text solicitations my son’s
8 phone received very often, which is why the video of seeing what webpage the

9 <http://getstartedhere.xyz> link opened was created on or about November 28, 2021.

10 48. I am sure this is why on the 11/17/2021 recording I sounded confused and why I asked the
11 caller “I’m not sure who you are or why your calling” and “you said responded to a text
12 message?”.

13 49. What I would know during the 11/17/2021 recording is that I’m in a lawsuit with the
14 defendants and they are countersuing based on a “Ivette”, so when he says: “before that, let
15 me just confirm your information here . . . your first name is Ivette?” I would have also
16 factored that information into my response.

17 50. In those 3 seconds I would have been thinking about what I know about this call and the
18 caller so far, how that compared to other calls I had previously received, and based on those
19 previous calls, did I think the caller would hang up if I said I wasn’t Ivette.

20 51. I would have only said I was Ivette to keep the call going and investigate the identity of the
21 caller.

22 52. At the time I almost certainly would have thought “Trust [something] Auto Insurance”

23 sounded like a fake business name [It took me seeing Trust Built Auto Insurance in the

24 video above before I realized he was saying Trust Built Auto Insurance in the recording]

1 because today I don't remember hearing this business name before, it sounds like the a fake
2 name to me, and later in the recording he passed me to lady who identified herself as "Auto
3 Insurance Specialist" which sounds like another fake business name.

4 53. It is unclear if the 11/17/2021 recording ended with the end of the call or stopped for
5 another reason, but whatever happened I never connected this call to the defendants prior to
6 their disclosing the recording, which shows how difficult it is to trace calls to the source.

7 54. Exhibit DEF003 is a true and accurate copy of a defense trial exhibit DEF003 described in
8 Dkt. 374 page 25.

9 55. Outside of two depositions, I don't know Ivette.

10 56. I've never met her or recognized her in real life.

11 57. I don't know anyone who I know knows her.

12 58. I don't know anyone who I know has met her.

13 59. I don't believe we have ever worked at the same company.

14 60. I don't believe our children have ever attended the same school.

15 61. I don't believe we have ever attended the same social event.

16 62. Other than her witness function she is a complete stranger to me.

17 63. I knew nothing about her prior to the start of this litigation other than that people called the
18 1019 phone asking for her or if I was her.

19 64. I've never conversed with her about anything other than her factual knowledge relevant to
20 litigation or arranging depositions.

21 65. I do have and have never had the password to ivettealfredomartinez@gmail.com.

22 66. I do not and never have controlled email account ivettealfredomartinez@gmail.com.

1 67. I have only sent email to and received emails from email account

2 ivettealfredomartinez@gmail.com and those emails were strictly regarding her factual

3 knowledge relevant to litigation or arranging depositions

4 68. I've never given Ivette anything of value.

5 69. I've never given Ivette anything of value other than offering to pay for her to stay overnight

6 in the Tacoma area and pay for incidental expenses if she testified in person at trial which

7 she declined.

8
9 I declare under penalty of perjury under the laws of the State of Washington that the foregoing
10 statements are true and correct.

11
12 

13
14 Signed by Nathen Barton

13 March 16, 2025

14 Date

Signed in Camas Washington
Clark County